

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DARNELL BROWN,

Plaintiff,

v.

MARY'S GRILL, et al.,

Defendants.

Case No. 17-cv-11197  
Honorable Laurie J. Michelson  
Magistrate Judge Anthony P. Patti

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**ORDER ACCEPTING MAGISTRATE JUDGES' REPORT AND  
RECOMMENDATION AND DENYING DEFENDANTS' MOTION TO DISMISS**  
[12]

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Plaintiff Darnell Brown, proceeding *pro se*, has filed this lawsuit alleging employment discrimination and retaliation. (R. 1.) Defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (R. 12.)

Presently before the Court is Magistrate Judge Anthony P. Patti's December 21, 2017 Report and Recommendation to deny the motion. (R. 18.) At the conclusion of his Report and Recommendation, Magistrate Judge Patti notified the parties that they were required to file any objections within fourteen days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d), and that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (R. 18, PID 100–01.) Objections were due on January 4, 2018. As of January 17, 2018, no objections have been filed.

The Court finds that the parties' failure to object is a procedural default, waiving review of the Magistrate Judge's findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that "a party shall file objections with the district court or else waive right to appeal." And in *Thomas v. Arn*,

474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit's waiver-of-appellate-review rule rested on the assumption "that the failure to object may constitute a procedural default waiving review even at the district court level." 474 U.S. at 149; *see also* *Garrison v. Equifax Info. Servs., LLC*, No. 10-13990, 2012 WL 1278044, at \*8 (E.D. Mich. Apr. 16, 2012) ("The Court is not obligated to review the portions of the report to which no objection was made." (citing *Thomas*, 474 U.S. at 149–52)). The Court further held that this rule violates neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate Judge's Report and accepts his recommended disposition. It follows that the motion to dismiss filed by all Defendants (R. 12) is DENIED.

SO ORDERED.

Dated: January 17, 2018

s/Laurie J. Michelson  
LAURIE J. MICHELSON  
U.S. DISTRICT JUDGE

#### **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 17, 2018.

s/Keisha Jackson  
Case Manager